

THE
J U S T I C E
OF THE ESTATE
LEGISLATURE
C O N S I D E R ' D ,
In respect especially to their POWER
O F
Decreeing RESTITUTION.

Fiat Justitia ruat Cælum.

With a PREFACE
Inscribed to Sir R---- S----, &c.



L O N D O N :

Printed for PHIL. JAMES in the Strand. 1732.

[Price One Shilling.]

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THE LEGISLATURE

considered

In reference especially to their Power

to

Describing RESTITUTION

From Augustine and Company

With a PREFACE

Intended for Sir R-----S-----G-----



London:

Printed for THE NAMES in the Senate 1722.

[Price One Shilling]



P R E F A C E.



INCE *Knavery* and Oppression have reign'd so long unpunished, nor have felt the Effects of Justice till of late, it may not be improper to make a Dissertation, or Encomium, on the *Justice of the Legislature*, in taking Notice of such flagrant Enormities, as have been perpetrated within these few Months: And every *Honest Briton* that has his Country's Good at Heart, will rejoice to see the Abettors thereof punished. If Infamy or Injustice is to be rewarded, let the *Villains* escape; but in so doing, we not only expose our own Judgment, but in some measure arraign the Justice of *Heaven*; for 'tis the peculiar prerogative of Divinity, to reward good Deeds, and punish Offenders, and he that pursues the same on Earth, deserves in a special manner to be rewarded; every Person ought to strive

who most shall sound his Praise, and chauat
forth immortal Lays unto his Memory.

We have had too manifest Instances of Mis-
ery, Injustice and Oppression; a late famous
Transaction which has been the Ruin of
several, may serve as an Evidence of this, it
not only has been the Destruction of whole
Families, by impairing their Fortunes, and
disappointing their Children of what might
otherwise have been their Due, but has also
occasion'd 'em to make away with themselves,
and by committing the Sin of *Suicide*, endan-
ger'd their everlasting Happiness, and Peace
hereafter.

Such is the Corruption now reigning, and
the Depravity of Mankind, that the Contri-
vers, and Abettors of this horrid Fact, were,
for a long time, suffer'd to proceed with Im-
punity, and to glut their voracious Ambition
with the Estates of Widows and Orphans;
Justice was unheeded, Villany reign'd, Estates
were gain'd, and Rogues in guilded Chariots
rode, while poor honest industrious Trades-
men were deprived of all Means of Succour,
and forced to drudge, and moil, to support
the Extravagances, and Exorbitances of
Villains in State.

Who that has a Soul capable of Just Ideas, or
fir'd with a Resentment of Vice, can behold
such Enormities without a iust Indignation,
and Abhorrence, that such a View must
needs excite, if we have any of the noble
Spirit of our Ancestors left, it must needs
raise

raise in us a Detestation and Horror, and a Resolution, to abolish and prevent all such Abuses for the future.

But if such are the Effects that such Sins are capable of exciting, what must be our Gratitude, our Thanks, and Devoirs, to the generous Souls, that will free us from such a Thralldom! How shall we sufficiently extoll their Prudence, and Magnanimity in rescuing us from such imminent Danger! The Prayers of Widows and Orphans, will, with loud Accents reach the Ears of Heaven, and sound their Encomiums to the Highest! how pleasant must it be to have the good Will of the honest industrious Poor, the grateful Thanks of the wretched, Unfortunate restor'd to their former Estates; to be surrounded with a continual Volley of good Wishes, and continual Blessings.

On the contrary, how dismal is the State of those who are universally shunn'd, a Pest to Mankind, an eternal Plague to themselves, and a Nuisance to all Mankind, who are banish'd all Society, because their very Community is infectious.

When Villains like these are punished 'tis a kind of a Restitution to Mankind for the Injuries done 'em; nay, 'tis but *Justice* to the Common Wealth.

And since our Legislature have consider'd the many Oppressions we lye under by the means of petty Villains, it is to be hop'd they will in due Time inflict a Punishment,

on

on *Greater Rogues*, a Punishment that their enormous Crimes deserve, and so free the honest part of Mankind, from their Fears, by abolishing the Authors thereof, and by taking from the Face of the Earth all publick Robbers, who amass to themselves immense Riches, from the Ruin of the Innocent and Distressed. And that, as they have hurried the Under-Sinners to a *Jayl*, they will hurry the *Glutted Sinners* with all their Implements and Tools of Destruction to the Stake.

For, that all such may meet the like Fate, and become Trophies of strict Justice; that Truth may again resume her Throne, and our *Patriots* still persist to punish Villany, Fraud, and Oppression, is the Sincere Prayer of,

PUBLICOLA.



T H E



J U S T I C E
O F T H E
L E G I S L A T U R E
C O N S I D E R ' D.

THE great End of all Society is to preserve the Rights and Properties of every individual Member thereof, by virtue of the Power and Authority which is lodged in the *Legislature*. From whence it is apparent that Justice is so essential to the Preservation and Well-being of all Communities, that they cannot exist without it; and whoever perverts, endeavours, or even meditates to pervert or change its natural Course, is not only

a Traytor but an Enemy to his Country, unworthy to breathe the Air with his fellow Subjects, and ought to be cut off from the Face of the Earth. For he that obstructs or turns Justice out of its proper Channel, opens a Way to let in an Inundation of all Manner of Vice and Corruption.

The End of Justice, which is the Preservation of the common Society of Men, cannot be obtained but by the Preservation of the Laws, which are the Guardians and Tutors of good Men, and mortal Enemies to the Wicked: and they are so necessary for every State and Condition of Life, that, as Cicero says, *the very Pyrates, Thieves and Robbers, could not live together without some Part thereof.* He tells us farther, that those Commonwealths which are ready to be overthrown, fall into miserable Issues, that they, whom the Laws condemn, are restored, and Judgments given are revoked and broken; and when such Things come to pass, we may conclude, that Destruction is at hand, nor can a Man justly concieve hopes of Safety. He also calls it the Souls of Commonwealths, from whence it will naturally follow, that every City or Country that hath no Law, must fall into Ruin and Perdition. It may not, therefore, be improper in this Place to treat particularly (tho' as briefly as the Nature of the Subject will admit) of this general Head the Law.

In every Commonwealth, consisting of many different Parts, necessary for the Establishment thereof, the Law is the Blood that gives Virtue and Life to it, the Bond that reduces all to Unity. We see that all living Creatures

Creatures naturally seek after the Companies and Assemblies of their Kinds ; it is therefore no wonder, if Men singularly adorned with Reason and Speech, and by these Prerogatives more communicable than other Creatures, born to love one another, to live together in a Civil Policy with Laws, Magistrates, and Judgments, having proper to themselves only the knowledge of Good and Evil, of Honesty and Dishonesty, of Justice and Injustice ; no wonder, I say, if they live more commodiously and happily together, and do that by Right and Equity, which Brutes and other living Creatures do only by natural Instinct. But to illustrate this Matter, let us first see what the Law is ; into how many kinds it is divided, whereunto it ought to tend ; the Profit of it, and how we must obey it.

The Law then may be defined, a singular Reason imprinted in Nature, commanding those things which are to be done, and forbidding the contrary.

We have the *Law of Nature*, and the *Written Law* : The Law of Nature is a sense and feeling, which every one hath in himself, and in his Conscience, whereby he discerns between Good and Evil, as much as is sufficient to take from him the Cloak of Ignorance, in that he is reproved by his own Witness.

The *Written Law* is double, *Divine* and *Civil* : The Divine Law is divided into three Parts, *Manners*, *Ceremonies* and *Judgments* ; or it may be said to be threefold, *Moral*, *Ceremonial* and *Judicial* ; but as the former are not

not very material to my present purpose, I shall pass them by, and all that is requisite to be observed concerning the latter is, that the *Judicial Law*, given to Men for *Policy*, taught them certain Rules of *Equity* and *Justice*, whereby they might live peaceably together, without hurting one another.

All Nations have liberty to make such *Laws* for themselves, as they shall judge expedient for them, and these we call *Civil Laws*; which must be squared according to the Rule of *Charity*, and differing only in Form, must have the same end, commanding always honest and virtuous Things, and forbidding those that are dishonest and vicious. Now of these *Civil Laws*, there are two chief kinds among us; the first are the *Fundamental Laws*, upon which every Monarchy and Publick Government is first grounded and hath its Beginning, which ought not in any wise to be infringed or changed; and such *Laws* being annexed and united to the Crown, the most despotic and arbitrary Prince cannot abrogate them so far, but that whatever he hath done in prejudice of them may be disannulled by his Successor; much less are Subjects permitted to attempt any such Matter. Nay, they who go about it seek nothing but to sow Sedition in the Commonwealth, and cause Subjects to revolt from their Superiors.

As for the other *Civil Laws*, such as *Ordinances*, *Statutes*, *Customs*, and the like, which have been made and received according to the Condition and Circumstances of Time and Place, the Legislature may change or correct them as occasion shall require. But here

here we must observe that as the King is the Supreme Part of the Legislative Authority, he has Power to put a negative upon any Act which shall be brought to him for his Sanction, especially if he thinks that Reason and Justice are compatible with his Will. But truly the change of any Laws in any well settled Estate has proved to be of dangerous Consequence; and therefore this ancient and wise Rule of Politicks is worth Observation, *That nothing is to be changed in the Laws of a Commonwealth, which for a long time has preserved it self in a good Estate, what apparent Profit soever a Man may pretend.* For this Reason, in the popular Government of the Romans under Publius Philo, the Dictator, the *Athenian Edict* was received, and passed into a Law, *That no Man should make a Request to the People without the advice of the Senate.* But there was a far more severe Decree among the Locrians, which was in effect, (as Demosthenes tells us) *That every Citizen who was desirous to bring in a new Law, should come and declare it publickly before the People with a Halter about his Neck, to the end that if his new Law was not judged fit to be received, as not being very profitable for the Commonwealth, he might be presently hanged, as a punishment due for his rashness.* I am apt to think that if we had had such a Law some Years ago, some Persons would have graced Tyburn, who now carry their Heads very lofty; but let them not plume themselves too much, perhaps they may not die a natural Death.

In every Society (says Aristotle) that is well instituted and ordained by Laws, great care

is to be taken that no part of the Law, tho' never so little, be divided or changed ; and that most heed is to be had of that which is done by little and little ; and it was a common Saying of *Paulus Æmilius*, the *Roman Consul*, that *Men never begin to alter and change the Estate of a Commonwealth, by making their first enterance by some notorious Resistance of the Laws.* We must therefore conclude that the preservation of the Fundamental of a politic Estate are left at Random, when Men neglect the care of keeping diligently the Constitutions thereof, how light or of what small importance soever they may seem to be ; for as the Law is the Basis of every Society, if that be sap'd or undermined, the whole political Building must tumble down. There the wise Philosopher, *Bias*, very justly observed, that *the Estate of that Commonwealth is happy, wherein all the Members of the Community fear the Law as a severe Tyrant ; for then whatever it requires is undoubtedly performed.* *Isidorus* says, after *the Law is established and approved, we must not judge of it, but judge according to it :* And the Maxim of *Chilon*, one of the Sages of *Greece*, ought to be so deeply stampt upon our Minds, as to have it continually in remembrance : *That is the best Policy, says he, where the People give greater attention to the Laws, than to the Lawyers.* When *Pausanias, the Lacedemonian*, was asked why it was not lawful in their Country to make any alteration in their ancient Laws, he answered, *because the Laws must be Mistresses over Men, and not Men the Masters over the Laws.*

The Benefit of the Law, or the Profit of it, is so evident to all Men, that there is very little, if any occasion to mention Particulars; for we all know that our Lives and Fortunes, our Liberty and Property, and every thing else that is dear and valuable, are thereby secured to us: It is a Barrier against the unlimited Power, and absolute Jurisdiction of *Tyranny*, and we cannot be too careful in guarding ourselves against the unbridled Will of a despotic Prince. Besides, it is beyond all doubt that the Subjects of every Commonwealth stand in need of a Law as of a Light to guide them in the darkness of human Actions; but it is particularly necessary in order to terrify the Wicked, who might pretend some true cause of their ignorance, or some probable colour for their wickedness, or at least some excuse for escaping the punishment, which is not imprinted in the Hearts of Men, as things forbidden by Nature. There are many Great Men in the World, who ought to ponder well on these things, and follow the dictates of their Consciences, lest they unexpectedly feel the edge of the Sword of Vengeance, which they are sensible they have merited on account of their enormous Crimes.

Notwithstanding what has been said, it is not the Law alone that makes a right Government, but upright Justice, and the equal Distribution of it, which ought to be deeper engraven in the Hearts of those who are authorised to execute Justice, than in Tables of Stone. And it is to small purpose to multiply Laws, except they are punctually observed; and the plainest demonstration a

Man can have of a design to subvert the Constitution of a Commonwealth, is an unbridled Licence and Facility in dispensing with good Statutes, and daily making new Decrees. If a Commonwealth be involved in Troubles, to multiply Laws is no less dangerous for it, than a multitude of Medicines in a weak Stomach ; and new Introductions are then especially to be taken away, and things brought back to their primitive and ancient Form. Historians tell us, that when there was the greatest multiplication of Laws and Decrees, Tyranny then gathered greatest Strength ; and thus it fell out under the Tyrant *Caligula*, who published Decrees of all sorts, good and bad, which were written in so small a Letter, that Men could not read them ; and this was done on purpose to ensnare those whom he designed should become Victims to his Will. His Successor, *Claudius*, put forth twenty Edicts in one Day, and yet Tyranny was never so cruel, nor Men more wicked than at that time. Therefore let the Laws of every Commonwealth be inviolable, strictly kept, not subject to Dispensation, not favourable to *Great Men*, but common and equal to all, and then the Bond of Civil Society will be rendered indissoluble.

Having said before, that all Nations have liberty to prescribe and frame *Civil Laws* for themselves, let me not be understood to approve certain barbarous and beastly Laws, received by some People ; such as those Laws as allowed a reward to *Thieves*, in proportion to the nature of their Thefts, which permitted

ted the promiscuous Company of Men and Women indifferently ; and others innumerable, which are not only void of all Justice, but even of all Humanity. But there are two things to be kept inviolable in every Law, *the Ordinance of the Law, and the Equity of it* ; the former being grounded upon the Reason of the latter. Equity is always one and the same to all People, because it is natural ; therefore all the Laws in the World must meet in the same Equity. Concerning the *Ordinance* of the Law, because it is joined with Circumstances, no inconvenience occasions any hindrance but that it may be diverse among sundry Nations, provided always that they all tend alike to the same Mark of Equity. Now since the *Moral Law* is nothing else but a testimony of the Law of Nature, and of the Conscience that is imprinted in all Men's Hearts, no doubt but this Equity, of which we now speak, is wholly declared and comprehended in it. Therefore it is requisite that this Equity only should be the Rule and End of all Laws. Those Laws then which are squared by this heavenly Rule, which tend to this End, and are limited by this Measure, ought to be received and followed chearfully, tho' they derive from the *Mosaical Law*, or otherwise from one another.

But there are many in the World who affect a singularity in Politicks, that they may pass for Men of deep Penetration ; and therefore strenuously affirm, that no Commonwealth can be justly instituted and ordained, if they lay aside the Policy of Moses,

by common Laws of any other kind whatever. This is an assertion so absurd in its nature, that it would cause the greatest Confusion in the Policies of the World, and needs not many Arguments to prove it vain and frivolous. Besides, by that Distinction of the Law which has been already made, it sufficiently appears that the Opinion of these *Wou'd-be's* is grounded upon an Ignorance of the Will of God. The Law of God forbids stealing, and divers Pains and Punishments are appointed for the same in the Policy of the *Jews*, according to the Nature, Time and Place of the Theft. The Law of God also forbids Men to bear false Witness; which was punished among the *Jews* with the same Punishment the Party falsely accused should have incurred if he had been found guilty. In some Countries there was no other Punishment for it than publick Ignominy and Shame; and in some the Gallows. Briefly, all Laws in the World with one common Consent, however different soever they be, tend to one and the same End, pronouncing Sentence of Condemnation against those Crimes that are condemned by the Law of God; but they do not agree in an equality of Punishment, which is neither necessary nor expedient. Some Countries would speedily become desolate and waste through Murders and Robberies, if they did not execute grievous Punishments upon those who are guilty of those Crimes; and an encrease of Punishment is necessarily required *sometimes*. In other Countries again, recourse must be had to severe Correction for some particular Vice,

to which they would be otherwise not only addicted, but even pursue it with more licentiousness than other Nations. Now if any shall be offended with this Diversity of Punishments, which is so requisite to maintain and support the Law of the *supreme Giver of all Laws*, will he not be reckoned to have a malicious Mind?

To conclude this Head, let us take notice that Civil Laws and Ordinances of the Sovereign Ruler in all *despotic* or *arbitrary* Governments; to the Legislature in a *mixt Monarchy*; to the Nobility or Chiefs in an *Aristocracy*; to those who preside over an *Oligarchy*; and to the People in a *Democracy*; and that each of these according to their Forms of Government, may alter and change their Laws, *when and as often* as it shall manifestly appear conducive to the Benefit of the *Community* in general. But at the same time due regard is to be had that no Infringements, no Inroad be made to occasion the least *Casm* in the Constitution and Fundamentals of any one of them. We are also punctually to observe, that all Laws must be referred to the infallible Rule of the Will and Justice of *him*, who is truly just in himself, and cannot depart from his Justice, and to the common Profit of the Society; and that he requires of us an unfeigned Obedience to such Laws and Ordinances, to which we must voluntarily submit ourselves. For as their general End is to set an Order and Policy among us, we must not dispute of their Reason or Cause, as long as their Jurif-

Jurisdiction extends not to our Souls, to lay a new Rule of Justice upon them.

Considering what has been said of the Law, have not the People of Great Britain, and those who are under her jurisdiction, all the reason imaginable to be truly and sincerely thankful for the inestimable Benefits they enjoy? particularly that they have a Right (and the Liberty of exercising that Right) to chuse their own Representatives in Parliament? The Liberty and Property of the Subject is secured by the Law, and whoever endeavours to break the least Breach therein, is a Traytor to his Country, and no Punishment is too great for him. He that would offer violence to the Subject in the minutest Point, would make no scruple of Conscience to do it in Matters of the greatest Importance. But if any of our Lawyers should attempt to pervert the Sense of the Law, or wrest its meaning by Misconstruction, false Deductions or Innuendo's, yet sure we have such learned and righteous Judges, that they would not countenance, much less approve such Proceedings: And as such things have never been done, we may rest assured they will not be attempted, even tho' it were to gratify the Malice of an enraged Great Man; or if attempted, would not be allowed by righteous Judges; at least no Jury, for their own sakes, as well as for their Fellow-Subjects, would find any Man guilty in such a Case. For a Precedent of this Nature must be of fatal Consequence to every particular Member of the Commonwealth, and those very Jury-Men could not foresee how soon the Tables may be turned upon them.

But

But as it may be expected that I should say something farther of the Nature of *our Obedience to the Law*; or, in other Words, the *Duty of all those Subjects*, who live under one Estate and Policy; I shall therefore use my Endeavour herein, but must first premise one or two Things, which are necessary to illustrate this Matter.

They, who are entrusted with the Execution of the Law, ought to use it as a Bond to reduce to Unity and Agreement all the Citizens of one Commonwealth, being unlike in their Callings; at which Mark every good politic Magistrate ought chiefly to aim. It may be justly said, that the whole Community fares well or ill, as all her Parts, even to the least, are ruled, and contain themselves within the Compass of their *Duty*. For all of them, aggregated, make but *one Body*, of which the supreme Magistrate is the *Head*, and the Law the *Soul*, that gives *Life* to it. It is therefore absolutely necessary that *these* should *command*, and the *others obey*. For whatever is profitable for the whole, is also profitable for the part; and that which is commodious to the part, is also commodious to the whole. Wherefore to obey well, which is necessarily required of the *People*, is greatly available to the whole *Political Body*.

In every Discipline the beginning is taken from the least Parts of it; *Grammar* takes its beginning from *Letters*, which are the least Things in it; *Geometry* from the *Point*; *Arithmetick* from *Unity*; *Musick* from the *Minnem* and *Semibrief*, which are also the least

least Parts thereof. Therefore *Policy* is the Order and Life of the Commonwealth; and the Commonwealth consists of a Multitude of *Denizens*, *Citizens* or *free People*. Under this denomination of *Citizen*, abstracted from any particular City, or Town Corporate, I include every Subject; and to avoid prolixity, I give this general definition of a *Citizen*, *That he is one who may bear any Office or Magistracy, or enjoy any Place of Trust in what form of Government soever.*

But here we must observe by the bye, that there never was nor can be a Commonwealth, wherein the *Citizens* were equal in all Rights and Prerogatives, but that some had more or less than others; and yet wise *Policy* has carefully provided, that the meanest should have no cause to complain of their Estate.

The convenience and proportionable Agreement in every Community is the cause why they continue and remain whole and perfect, when others are subverted or destroyed; particularly when Goods, Honours and Places of Profit are distributed according to the Condition of every Estate, and their Rights and Privileges preserved. But more especially when due care is taken that one Estate shall not grow *too great* above another; I mean that the *Nobility* shall not trample upon the lower sort of People, and bring them to a desperate Estate; and that the People, through their Traffick, Offices or Employments which they enjoy, shall not excessively enrich themselves to the prejudice of the *Nobility*, and get their Lands into their own Hands, whereby they may be rendered incapable

pable of being serviceable to their King and Country. When the poorer People are oppressed by the two other Estates, which I may call the *estated* and *moneyed* Men, it occasions a great wound in the *Body Politick*, and then they fall under the Burthen, like *Aesop's Ass*.

I shall now proceed to shew the *Nature* of our Obedience, or wherein that Duty consists.

It is necessary for the preservation of good *Economy* in every Commonwealth, that the Subjects should have the Estate of the *Magistrate* in great *Estimation*, otherwise they would soon be brought to *Anarchy* and *Confusion*; they must therefore honour and reverence him, as one that is sedulous in reprehending and punishing the *Transgressors* of the *Law*, For as the *Sun* in the Firmament lightens, heats, quickens and nourishes all things created for *Man's* use; so the *sovereign Magistrate* is the *Light* in a City or Kingdom, especially so long as the *observation* of *Justice* is imprinted in his *Heart*. Some there are, who pay obedience to their *Magistrates*, and are pleased that there shoukl be some *Superior* unto whom they might be subject; because they know it to be *expedient* for the *common Benefit*; and yet they will not scruple to call him a *necessary Evil*. But such Men surely forget that they are commanded to *honour* the King, and all who are in *Authority* under him; and we are to understand that by this Word *honour* is comprehended a good *Opinion* and *Esteem*. From this *Honour* or *Reverence*, it follows

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that we submit ourselves to *Magistrates* in all obedience, whether it be in yielding to their Laws, authorized by Parliament, or in receiving such publick Charges, or executing such Offices, as it shall please them to commit to us. Briefly, every subject is obliged to serve his Prince and Country with his Goods and Life, when such Service is absolutely necessary; and not as a *Mercenary* or a *Hireling*, who does it meerly for *Self-Interest*.

If then our Duty requires us to pay such a submission and obedience to our Prince and our Country, what Opinion must we entertain of those Persons, who having enjoyed Places of the highest Honour, Trust and Profit, shall, upon the least Disgust, oppose, and represent as unreasonable, injurious and detrimental, such Measures which they themselves had concerted and approved, and even affirmed to be most beneficial and commodious for the Publick Weal? who shall not only thwart and endeavour to disconcert the most salutary Proceedings, but also inveigle, and by false suggestions and misrepresentations seduce and draw in others who are incautious, to join their Party, and plume themselves upon the Success of their abominable Practices? Is not this flying in the face of Majesty? Do they not hereby sow the Seeds of Sedition, and create groundless Jealousies among the People? Do they not hereby manifest that they waver in their Principles, if such Men can be said to have any Principle? That nothing can satisfy them but cramm'd Purses? In a word, is it not the height of Ingratitude? And yet that there have been such mercenary Men,

Men, requires no proof, since it is so recent in the Memories of so many thousand People.

But not to dwell too long upon this Topick of Obedience, I shall only add that however some may think that a weak Magistrate may be contemned without Punishment, if they do not proceed to such a length as to incur the Penalty of any human Law, yet he that is *Strong and Mighty* will revenge the Contempt of his Ordinance hereafter. Besides, under this Obedience is contained that Moderation, which all private Persons ought to observe in publick Affairs, namely, that they must not of their own Motion intermeddle in the Government or Reformation of them. If there be any fault in the common Policy that needs an amendment, they must not take upon themselves an Authority to redress it, or once put their Hands to it, which in that respect are tied behind them; but in such a Case they are with due reverence and submission to lay it before the *Supreme Magistrate*, and if he commands them to use proper Means to redress the Grievance, they ought then to apply themselves diligently to it, being furnished with publick Authority. For as the *Counsellors* of a Prince are called *his Eyes and his Ears*, so we may call those Men *his Hands*, whom he hath appointed to execute such things as are to be done; and to these we owe *Honour and Obedience*, seeing the force of the Laws consists in their Commandments. These are the Magistrates and Officers established by sovereign Authority, and armed with Power to compel Subjects to obey the

Laws, or punish those who shall violate them. I shall therefore conclude this Head with a short Character of a *good Magistrate*. He is a *Shepherd* of the People; the *Guardian* of *Peace*; *Protector* of *Justice*, and *Preserver* of *Innocence*; but if he derogates from hence upon any account whatever, he then shews himself to be an *evil Magistrate*.

Justice, says *Cicero*, is the *Queen of all other Virtues*; and *Paulus* the *Pythagorean*, calls her the *Mother and Nurse of all Virtues*, and many other Philosophers give her a Variety of glorious and excellent Names. Among Men *Justice* is taken for *an equal distribution of Right and Law*, and no *Kingdom or Commonwealth*, says *Plato*, can be well *instituted in the beginning, or well ruled after its Institution, or preserved and kept in a happy and flourishing estate, without divine or human Justice; without the Counsel of the aged, or without the fear of the heavenly Wisdom*. He tells us in another Place, that *Justice requires an upright Dealing with Men, and an equal Distribution towards all the World, according to the Deserts of every one*.

But what would *Plato* say, if he had lived in our *Age*? Would he not declaim against the *inequal Distribution that is seen in some Countries*? Would it not grieve him to see such wholesome and necessary Precepts slighted and contemned? As for *Desert* or *Merit*, I look upon them to be rather obstacles than a furtherance in the Road of Preferment; and what induces me hereto is, that I have too often seen Men of groveling Births, Men who can scarce read or write, and without the least grain of

of Merit or Desert, shouldered into Places and Posts of Credit and Profit, while Men of good Descent, Men of Integrity and Learning have been postponed and neglected; nay, even compelled to walk about the Streets in an abject and forlorn Condition, not having the common Necessaries of Life. How then will those Men be able to give an account of their Actions, who are guilty of such a Breach of Justice?

Aristotle calls Justice a general Virtue; for, says he, they who have her perfectly, may boast that they have within them all other Virtues. For no Man could know what was just and unjust, if he were not Prudent; neither could he exercise the Precepts of Justice, if by Temperance he knew not how to moderate all his Passions and private Affections, not suffering himself to be overcome with Wine, Gluttony, Lust, Covetousness, or any other Desires and Motions which binder the use of Reason. Again, he could not practice one principal Point of Justice, which is to succour with all his Might the afflicted and distressed, and provide that no one be wronged, if it lies in his Power, notwithstanding any Danger wherinto he may fall, altho' it may be the certain loss of all earthly and transitory Goods, and even the loss of Life; I say, he could not practice this, if thro' Fortitude he did not contemn whatsoever favours of the World, and also Death itself.

I am apt to think that a Man may travel many thousand Leagues, and not find such Men. I must own indeed that there are some Persons in the World, who by the Nature of the Honour

Honour and Title they enjoy, are sworne to succour the oppressed, but I never heard they performed that part of their Oath ; perhaps they have not been called upon to do it.

Cicero tells us, That this Virtue (speaking of Justice) requires us to forsake our Pleasure and private Profit, that we may procure the Benefit of the Commonwealth, tho' it be to our own Peril and Loss ; and Plato says, that if we purpose to exercise Justice perfectly, we must make no difference of Men in regard either of their Friends, Kindred, Wealth, Poverty or Dignity. Agreeable hereunto, when Cleon, the Lacedemonian, took upon him the Administration of Publick Affairs, he summon'd all his Friends, and told them, That he renounced and discharged himself of all their Friendship, because Friendship has caused Men to yield to that which they ought not to have done, and to deviate from the good and right Purposes in Matters of Judgment.

But where is the Man, who will renounce Kindred or Friends now a-days ? Will not the Lawyer plead a wrong Cause for his Fee ? and will not Somebody else make Intercession for the vilest Criminal, provided he receives a handsome Gratuity for his Pains ? Not many Ages have elapsed since Pardons have been strenuously solicited for Traytors, Murderers, Thieves and Ravishers — *Quid non mortalia pectora cogis auri sacra fames ?*

*Wealth to amass, what means some Men essay ?
And headlong run to Hell the shortest Way.*

They command and govern well too who forbid us to do any thing, which we doubt to be

be *just* or *unjust*; because *Equity* is so clear in it self, that when we doubt of any thing we may conclude there appears some *Injustice* in it. *Cicero* and *Aristotle* divide Justice into these two Parts, *Distributive* and *Commutative*. Distributive Justice consists in giving to every one according to his *Desert*, whether it be Honour, Dignity or Punishment. Commutative Justice is in keeping Fidelity, and causing it to be kept in Promises and Contracts, and so behaving ourselves no otherwise to another, than we would have them behave to us. Here, I think, it will not be amiss to treat briefly of this Virtue.

Among the famous and great Persons of old, no Virtue was more commended or kept and observed more strictly than *Faith* or *Fidelity*, which they affirmed to be the foundation of Justice, the indissoluble Bond of Friendship, and the sure Supporter of human Society. Fidelity, or *performing a Promise*, has been always kept inviolable by the honourable Men of Antiquity; and I heartily wish I could say the same now in respect to every Nobleman in this present Age. It is much better not to *promise* than to violate the Promise that has been made; and tho' indiscreet and inconsiderate Men will readily promise whatever you desire, and often more than is required of them, yet they are obliged in Conscience to fulfil it in every Point; and if they receive any Damage thereby, they deserve it as a Punishment due to their rashness and inconsideration. But a wise and prudent Man, a Man of good and sound Judgment, will weigh and deliberate upon

upon the sense and reason of the Request, before he will promise to grant it ; and having once engaged his Word as a pledge for the performance thereof, he will perform it, whatever Loss or Damage may ensue to him, having a greater esteem for the Honour of *Truth* and *Fidelity*, than of his own Life, which the Non-performance of his Promise will render odious and contemptible in the Eyes of all true Justice and Integrity. There have been too many in former Ages, and no doubt there are too many at this present time among us, who value not the Justice of adhering to their Promise, but when it is profitable to them, accounting *Profit* to be *Honesty*, and saying that Children must be deceived with what best suits their Inclinations, and Men by *Fair Words* and *Promises* ; which kind of Behaviour argues those Men to be in reality worse in their Behaviour towards the *Great* and *Supreme Judge of all things*, than towards their Enemies ; for he that beguiles his Enemy thro' the means of *Fidelity* made to him, does sufficiently testify that he fears him, and dares not discover to him that which lies concealed in his Heart ; and yet at the same time he has no fear or reverence for the Divine Majesty, from whom nothing is hid, but uses him as a Mask for his Wickedness.

We must, says Cicero, keep that Promise inviolable, which we have made even to our Enemy, thò' the Misfortune of War has constrained us to make it. How much less therefore ought we to refrain from performing a Promise made

made to our Friends, Acquaintance and Relations ? Hence then we see, the Excellence of a Promise is such a thing, that whoever pawns his Word for the due Execution of it, binds his Honour to him unto whom it has been given, and neither the divine or human Law will grant a Dispensation, unless it be given for the performance of some wicked Deed, and then both of them will dispense with it.

This short Treatise on Fidelity is an excellent Lesson for Courtiers and other great Men, who make Promises as Pastry-Cooks do Pye-Crust ; for certainly it would be much kinder and honourable in them to give a Negative to a Suitor at first, than to feed him with vain Expectation, and fob him off at last. This is worse than stabbing a Man at once, for it occasions a painful and lingring Death ; for when a Man has spent all his Substance, tho' little in some respects, and consumed his time in a fruitless Dependence upon the Honour (O mistaken Notion !) of a great Man, and finds himself miserably baulked at last, how can he spend the remnant of his Days but in anxiety and vexation of Spirit ?

The Egyptians were the antientest Law-givers, as Historiographers relate, and were very careful and diligent observers of Justice. In their Cities they painted Judges without Hands, and the President or Chief Justice blindfolded, to teach that a Judge ought not to take a Bribe, or shew any respect of Persons, or judge for any favour or affection. — *I do not find that History makes any mention of such a Person as an Attorney-*

torney-General, whose Business is to espouse, in my Opinion, and to maintain the Right of his Master, and also the Cause of the Innocent, when it belongs to his Province, as his Royal Master is the Father of his People, and Conservator of the Laws. But if the Egyptians painted their Judges in such burlesque Figures, I should be very glad to know in what monstrous Shapes they represented their Lawyers? If they covered their Eyes, I hope they did not take away their Hands, or put a Padlock upon their Pockets. If such a Method was to be practised in our Days, I question whether the Portrait would not be construed to be a Libel, that not one Word was written to explain it.

The Kings of the Egyptians obliged the Judges, when they entered into their Office, to swear, that tho' it should happen that they should command them at any time to judge unjustly, yet they should not obey them; and the ancient Grecians and Romans shewed themselves great, true and zealous Followers and Admirers of this Virtue and Justice, even towards their Enemies. They judged it a very noble Act to accuse the wicked, provided it was not done thro' any private Pique, Passion, or thro' Malice, and for the sake of Revenge; they delighted much in seeing young Men, by way of Justice, pursue and prosecute Transgressors. This caused Solon, the Philosopher, when he was asked what City seemed to him best governed, to answer, That City, wherein they who are not wronged, do as eagerly endeavour to procure Satisfaction for another, who has been wronged, as if they them-

themselves had received the Injury ; and he gives this Reason for it, they who violate or break the Laws, do not offend one Man alone, but the whole City and Commonwealth ; therefore every one ought to desire and seek after just Punishment for the Delinquent. The Severity which the Lacedemonians observed in their Judgments, procured such a publick Safety, that for a long time they did not put Locks to their Coffers, or Bolts to their Doors. O happy ! a thousand Times happy was the Golden Age of those famous Men, under whose Government Justice was had in such Honour and Reverence ! If any thing causes Magistrates to commit Injustice, it chiefly is to be attributed to Avarice, the favour which they bear, or the Bond with which they are bound to some Person more than another. In either Case manifest themselves to be partial Men, which is the greatest Ignominy and Disgrace, the vilest Mark of Shame and detestable Villany, with which they can possibly be branded. Such Men will not stick at taking the dirtiest Work in hand, and will plunge themselves over Head and Ears in the Mire, rather than not affect it ; whose Company ought to be as cautiously avoided, as the Society of the most wretched Miscreants.

Aristides, the *Athenian*, was the reverse of such Men ; his love of Justice ought to be had in perpetual remembrance. Having accused a Person who had done him great Injury, the Judges were so incensed against the Defendant on account of the atrocity of the Fact, that they would have condemned him, unheard ; so much did they trust to

the integrity of the Plaintiff, being assured that he would not alledge any thing against him but what was literally true. *Aristides*, who for his Virtue had merited the Name, and was called *Just*, took the Defendant by the Hand, and casting himself at the Judges Feet, implored that the accused Party might be heared in justification of himself, which was no more than what the Laws allowed. History tells us farther, that when he was a Judge two Persons pleaded before him, and one of them, in hopes of obtaining some particular favour, said, My Adversary has done thee much wrong, *Aristides*; to which he immediately made this Answer; ' My Friend, ' prove what Injury he has done to you; for ' I sit here to do Right and Justice to you, ' and not to myself. By this he shewed that Justice ought to be administred without any private Paision, Revenge or Choler, which is practised too often in every Age. When Ambassadors were sent to *Argeilaus*, King of *Lacedemonia*, to treat with him about some particular Affairs, one of them said, that *their great King would have it so*. To this he bravely answered, *in what is be greater than I am, if he be not more just*; whereby he judged very well that the difference between a great and a little King ought to be taken from Justice as from a kingly Measure, according to which Rule they ought to govern their Subjects, since they were first established to do Justice.

When a poor Woman came to make her Complaint to *Philip*, King of *Macedonia*, and he answering that he had no. leisure

at

at that time to hear her ; she said with a loud Voice, *Then be not thou King*. Sure these would be dangerous Words in succeeding Ages, and no doubt would be construed High-Treason. But *Philip*, renowned for his Meekness, was so sensibly touched with the Consideration of his Duty, that he returned presently into his Palace, and setting aside all other Affairs, gave himself up entirely to hear all Complaints and Requests that were brought before him, beginning first with the poor Woman, who had manifested such a brave Spirit. Another time, not hearing thoroughly the justification and defence of a Person, whose Name was *Marchetas*, for sleep had overtaken him, he condemned the Man in a certain Sum ; whereupon *Marchetas* cried out, *I appeal to Philip, when awake*. This coming to the Ears of the King, he would hear him again ; and then declared him not guilty. However, he paid with his own Money the Sum, wherein he had before condemned *Marchetas*, that he might keep inviolable the Authority of his Sentence.

‘ This is an excellent Lesson of Instruction
 ‘ and Admonition for peevish, morose and
 ‘ drowsy Judges and Magistrates, who, to
 ‘ gratify their empty Bellies, or to indulge
 ‘ themselves with a Nap, will pronounce
 ‘ Judgment before they have heared, weighed
 ‘ and considered the Merits of the Cause ;
 ‘ and the other is a good Reprehension for
 ‘ delaying to do Justice upon any pretext
 ‘ whatsoever ; for they are sworn *nec deferre*,
 ‘ *nec negare*, as well as *nec vendere justitiam*,
 ‘ not to deter, not to deny Justice, as well
 ‘ as

as not to sell or make Traffick of it, which Heaven knows, and many innocent Sufferers have too much reason to say, has been done by trading Justices.

I could make mention of many other Examples among the Antients; but these, I think, are sufficient to testify to us how much they valued and recommended the preservation of this glorious and shining Virtue, Justice.

I shall only add, that when *Archidamus* was asked, what were these Governours of the *Lacedemouian* Commonwealth, by whose Means it was maintained and preserved in such and so much Glory, as was then to be seen? He answered, *The Laws first, and next the Magistrates observing those Laws.* Thus we see that as Justice is the End of the Law, so the Law must be the Rule of Justice; and there is nothing more ornamental to a Prince or Magistrate, of a good and gentle Nature, than the practice and exercise of Justice.

It is therefore absolutely necessary for him, who is *principally* entrusted with the Administration of this super-excellent Virtue, and who nevertheless does commit this Duty to others under him (for it is a Weight too heavy to be born by any single Person) to make choice of good, sufficient and able Men to perform such a Charge; I mean both for their Learning and Capacity, and likewise for their exemplary Lives. Therefore to remove the Cause of so many Abuses and evil Transactions, by which Millions of poor Families in the World have been ruined,

ruined, and to prevent the epidemical Contagion from spreading farther, in my humble Opinion, this is one of the best and surest Means; *not to commit the Administration of Justice, which is so precious a thing, to the Licence of any who will take it upon him, whereby it is often exposed to Sale*, as it were some Merchandize of small Value. Which Method (to speak my Mind freely) gives occasion, nay, constrains Men to take Bribes, and to be covetous, who ought to be farthest from it. For as long as Places are *vendible*, and shall be given to those who bid most for them, (Instances of which we have seen here among us within a very few Years) it will appear that they who have most Money shall be the first and chiefest, tho' the most ignorant and unworthiest. What Justice can be expected from such Men? For when a Man is once fixed in a Place, which he has purchased, he first consults how to reap Profit and Advantage from thence, according to the Value and Interest of the Money at least, which he laid out upon it.

What is more natural than to say, if my Office cost me so much, then I must use *Ways and Means* to make it worth so much to me; for if I had employed my Money another Way, I might have had thus much of Revenue or Inheritance? This is an Argument which many have used, and yet never *blushed* for the Matter, tho' it has had such an Effect upon those who have heard it. The Emperor *Alexander*, and after him *Lewis* the 12th of *France*, used frequently

frequently to say, by way of Prophesy, (which since their time has been too often verified) *That buyers of Officers would sell by Retail, as dear as they could, what they bought in Gross.* A wise Politician, not many Ages since, very well observed, that they who set Offices or Places of Benefit, to Sale, do sell at the same time the most sacred thing in the World, which is *Justice*. They sell the *Commonwealths*, they sell the *Blood* of the Subjects; they sell the *Laws*; and by taking away the Reward of *Honour*, of *Virtue*, of *Knowledge*, of *Learning*, of *Honesty* and *Integrity*, they open a Gate to *Thefts*, to *Bribes*, to *Covetousness*, to *Injustice*, to *Ignorance* and *Impiety*; in a word, to all manner of *Vice* and *Filthiness*. Nor are they who buy them less irreproveable, but as greatly to be blamed as they who sell them; for they minister Life and Nourishment, as much as in them lies, to this monstrous *Hydra* of Covetousness and Lucre, which sucks up and devours the Substance of the *Poor*. How frivolous and void of Reason, is the excuse of these Men, when to palliate their corrupt Inclinations, the only Method they can use is to say, that if they do not lay out their Money *that way*, there are others who will! To this I reply, will they do *evil*, least another might do it before them? Besides, let them consider and ruminate on the Matter, and then their Consciences will dictate to them that they are tempted thereunto by *Ambition* or *Avarice*; and if by chance there should be one among them, who has a true sense of his Duty, and

and uses his utmost Endeavour to promote the Profit and Interest of his Country, how small an advance can he make therein, when there are an hundred corrupted Persons who stand in opposition to him ? But I speak this without Offence to *good* Men, (I hope) who bewail and lament their Estate and Condition being in such Company ; and let not such Buyers of Offices think that they deserve any Honour or Respect upon that account, which is the reward of Virtue only ; but let them rather know, that they deceive themselves no less than those Men did, who thought to fly with the golden Wings of *Euripedes*, which they made of the most ponderous Matter that could be, instead of the lightest.

‘ How studious are some Men to screen themselves from the Eyes of the World, in respect to this abominable Custom of *buying Places*, hoping thereby to deceive Mankind, tho’ in reality they deceive themselves at the same time ! They exclaim against such Methods as illegal, and truly they are a palpable Breach of the Laws, which do not only enjoin the contrary, but render every Office so bought and sold, and any Bond or Contract made or given upon such an account, void and of no effect, and a Penalty annexed. And yet to hoodwink the Matter, they clandestinely pursue this evil and unwarrantable Practice, in keeping a Friend or Agent always in readiness to receive the Money, who thereupon undertakes to procure the Place for

‘ the Sum that is deposited ; and this, he will tell you is nothing more than what he thinks he deserves for his Trouble and Interest with the Great Man, who has the disposal of the Place ; tho’ if a Scrutiny were made, it would soon appear that he seldom gets for himself above a twentieth part.

The Emperor *Aurelianus* was so careful of placing an unworthy Man in the Seat of Judgment, that he would not prefer any to the Dignity of a Senator, but with the consent of the whole Senate. — ‘ Here I cannot omit making mention of that excellent, that salutary Act, that lately passed into a Law, to prevent Bribery and Corruption in the Elections of Members of Parliament ; and tho’ some Persons call it only an Amendment of former Acts, yet every one who values his Liberty, must acknowledge that such an Amendment was absolutely necessary, and that the Oath therein enjoyned to be taken by every Elector, and the Penalties upon every one of them, as well as upon every Candidate, in case of Male-practice, does very much corroborate the Constitution and Welfare of this Kingdom. Who was the Projector of this Bill, I know not ; but he, and the other Gentlemen who forwarded it, have manifested a Publick Spirit, and deserve the sincerest Thanks of their Country.

‘ I had the Honour of an intimate Acquaintance with a noble Peer, who died a few Years since, when he was a Commoner, being

being requested to stand a Candidate for a certain Borough, he gave the strictest Orders to his Domesticks not to associate themselves with any of the Towns-folks; not to drink with any one of them; not to speak one Word in the Behalf or Praise of him. His Orders were punctually obeyed, and he obtained the Election; nay, the People were so well pleased with the Method he had taken, that they placed him in a Chair, and he was carried to his Lodgings upon Mens Shoulders, accompanied with the Huzzas of all the Populace. This Nobleman had the Interest of his Country so much at heart, that he always looked upon Bribery and Corruption with Detestation and Horror; and even his very Enemies, (for who is there in this vile Age without them?) retracted the ill Opinion they had conceived of him, when it appeared that tho' he had enjoyed the most honourable and most profitable Places, (by which he had an Opportunity, like others, of amassing immense Treasure) he died so poor, that he left behind little more than his paternal Estate, notwithstanding he had at that time four Children, and a Lady, who in a short time after brought forth Twins.

But to return.

We may depend upon this, as an *Axiom*, that nothing is more necessary to direct, guide and order the Life of Man to her proper End than this Virtue Justice; which being taken away, all other Virtues sequester themselves far from us, and give place to

Ruin and Confusions. When Persons in high Stations delegate the Administration of Justice to those Men only who deserve it, they put in ure the first Point requisite for the Preservation of the *Community*; namely, the recompensing good and virtuous Men; and this will never fail to prompt Men to find out and pursue the way that leads to Virtue, whose Property is to bring them to Honour. From this happy beginning will proceed the other Point no less necessary, being the entire ornament and preservation of Justice, *to wit*, the Punishment of Transgressors; so that all things will be maintained in good order to the Benefit, Content and Greatnes of that Commonwealth, wherein such wholesome Methods are practiced.

I shall now proceed to treat of *Injustice*, and shall endeavour to be as concise as possible.

There is none so perverse, or so much abandoned to the Desires and Allurements of the World, who can utterly deface, through Oblivion, the knowledge of *Good and Evil*; and tho' they may put an outward Gloss upon their corrupt Actions, and seem to glory in them, yet the remembrance of them and the testimony of their Consciences, will, at one time or other, fill their Minds with the Terror of a just Judgment. A Man may bring himself to a habit of drowning one wicked Action by committing more execrable Deeds successively; but when the Heat, Thirst and Fury of his vicious Passion is abated, he will then find that he has filled his Life with Shame, Danger, and the dreadful

ful Apprehensions of impending Justice. *Ciceron* says, that it is more against Nature to spoil another Man, and to see a Person encrease his Wealth by damaging another, than Grief, Poverty or Death. If then the Commission of such things are absolutely forbidden, what is there in this World that should move us to forego the brightness and name of Virtuous and Just. *No Man*, says *Socrates*, ought to commit any unjust *Act*, how small soever it be, for any Treasure, Health or Profit, which he may hope to reap thereby; because all the Treasures of the Earth are not to be compared to the least Virtue of the Soul. All Men therefore ought to have this one End and Intent, that when they propose any thing advantageous for themselves, they should also make it beneficial to the whole Community; for if they have but respect to their own, their Unity will soon be dissolved. *Although it were so*, says *Cato*, that Injustice did not procure any Danger to him that practises it, yet it will bring Peril to others. Whenever it falls out that they who have the Sword in Hand to correct Injustice, do either countenance, authorize or practice it themselves, then is the Gate of all Misery opened, and the Transgressors, thro' an unruly Licence, wallow in all kind of Cruelty; from whence all Disorder and Confusion proceed, to the total Ruin, and final Subversion of Towns and Cities, and in the End, of the most flourishing Empires, Monarchies and Commonwealths. Thus Injustice disanuls the Force of Laws, which are the Foundation of every Government; it is the Well-Spring of all Vices, and produce

produces Effects contrary to those, which have been mentioned to be the Fruits of Justice.

I am afraid there are few Governors, Magistrates or Ministers in the World, who can justly challenge that Praise, whereby *Pericles*, General and Governor of the *Athenians*, esteemed himself to be more honoured, than by all his brave Exploits either in War, or in Political Government, in which he was the chiefest of his Time, and which his Friends laid before him at the Point of Death, thereby to assure him, and to cause him to remember and rejoice in a true Immortality of Glory. *O my Friends!* said he, *Fortune bath had her part in these Exploits; but what I value most is this, that I never caused any of my Countrymen to lament, or to wear a mourning Gown, which thing alone ought to be attributed to my Virtue.* *O excellent and honourable Praise, which every good Man ought to seek after and desire!* *For what is more praiseworthy, than for Persons who move in the higher Orbs, not to bring Sorrow and Grief to the Commonwealth, thro' any act of Injustice.* This virtuous *Athenian* died willingly and without repining, taking a delight in an acceptable remembrance of those good Offices, which he had done to his Countrymen, who regretted their Loss with inconsolable Grief. *Now if it ever should happen that a Person, entrusted with the management of Publick Affairs, should either by his Blunders, or insatiable Thirst after Wealth, involve his Country in an inextricable Labyrinth of Difficulties, and plunge her in so many and such large*

large Debts, which many Ages to come will not be able to discharge; do you think that he can die with Peace and Tranquility of Mind, with that Resignation and Content, which Pericles manifested? Can it reasonably be supposed that out of a Million of Men, there will be found One hundred who will condole his Death? His Relations, if they have regard for their own Reputation, must be silent; and his Friends (if he leaves any behind him) will be obliged not to utter one Syllable to alleviate his Crimes; for to speak one Word in his Defence, is to draw an odium upon themselves, and give the World just Cause to think, nay, even to conclude, that they would perpetrate the like vile Actions, if they had a Power to do it.

Plutarch says, that every Man who commits an act of Injustice, is the Prisoner of Justice at that very instant of Time, in which he does it. This Life is his Prison, out of which he cannot escape, but must undergo the execution of that Sentence, which is given against him by the Sovereign Judge. And tho' in the mean time he may send Presents and Gifts, indulge himself in Pleasures, and stave off the thoughts of the evil Hour with Sports and other Diversions; he does nothing more than other condemned Malefactors, who to bilk the Executioner, distribute their Money among such as their Inclination leads them, and play at Cards and Dice, or use other Pastime, with *Halters* about their Necks.

The Roman Emperor *Alexander*, surnamed *Severus*, on account of the Cruelties he committed, punished justly one of his Subjects, who frequently, like a *Horse-leep* of the *Court*,

Court, sucked the Blood of them who had any Favour to request from his Master, by undertaking to accomplish what they desired, for a handsome Gratuity, having the Ear of the Emperor; but such Grants turn'd to the great Dishonour of his Imperial Majesty, tho' he was not conscious of the Cause; for a Prince ought not to make greater account of any thing than of the Grace and Favours of his Gifts and Benefits, which ought to be dispensed to none but Men of Merit. When the Monarch discovered the Baseness and Corruption of his *Minister*, he ordered him to be tied to a Post, suffocated with Smoke, commanding a Proclamation to be made by sound of Trumpet, *That they who sell Smoke should perish with Smoke.*

If every Courtier to whom the Ear of his Prince is open, and who is ready to grant any reasonable Request that he shall make, believing him to be a Person of Probity and Integrity, shall abuse such Indulgence, by recommending a Man, for filthy Lucre, as worthy of Honour and Preferment, who is really most unworthy; or shall misrepresent and aggravate Facts, thereby preventing Mercy from being tempered with Justice; I say, if every such Courtier should meet with a Punishment adequate to his demerit, what a Number of Vacancies there would be in most Courts in Europe? Then Justice and Honesty would in a little time walk hand in hand, and Vice be banished not from the Palaces only, but out of the Territories of such injured Princes. Are not these Proceedings a gross and vile Imposition upon their Sovereigns? Do they not tend to alienate the Hearts and Affections of their People, who

who are too apt to grow clamorous and seditious without any real Cause, which too often terminates in Civil Dissentions, and sometimes occasions the overthrow of States and Kingdoms ? What recompence can these Miscreants make ? Death, in an ordinary Way, even tho' attended with the Confiscation of their ill gotten Estates, real and personal, and of their Goods and Chattels, cannot make a sufficient atonement for their Crimes. But let other Countries do by their Ministers and Servants as they think proper ; happy are we who feel not the Weight of such Injustice, nor see it practiced or countenanced among us.

All Vices, like some great Men, have their Levees ; but *Injustice* takes the Right-hand of all others ; her principal Favourites are Severity and *Avarice*. Sometimes, tho' very rarely, *Profuseness* appears ; but 'tis only when she, as Mistress of the Ceremonies, introduces *Pride* and *Ambition*. A *Dutch* Painter might make an excellent Picture from this Sketch ; and it will be allowed that they have the best Skill and Judgment in Art and Nature, who can draw to perfection the Similitude of their own Faces.

As it is the Duty of all Magistrates, and of such who have Authority over others, to chastise and punish every Malefactor, so likewise they must beware lest under the pretence of exercising Justice, they fall not into the contrary extream, that is, Severity; which not only renders them odious on account of their Cruelty, but belongs rather to a beastly and savage Nature, than to the Nature of Man. For Clemency and Compassion,

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ought never to be separated from a good and just Sentence, which is either to excuse small Faults, or but lightly to punish them, provided always that no Violence be offered thereby to Justice. *Clemency is the true Preservation of the Royal Throne*; and one of the Antients laid, *it was grievous to be subject to a Prince, under whom nothing was tolerated, but worse where all things were left at random.* Murders and Cruelties deface all the Commendation of Justice, whose ways ought to be ordinary and usual, ruling Rigour with gentleness, as the Rigour of Discipline ought to be moderate gentleness, that the one may be commended by the other. Various are the Examples of Severity among the *Romans*, but I shall only mention the cruel Fact of *Piso*, the Proconsul, who, as *Seneca* relates it, seeing a Soldier return alone to the Camp, condemned him to Death, thinking that he had slain his Comrade, notwithstanding he affirmed that he was coming after him, and only begged a respite of five or six Minutes. When he was at the point of being executed, the other Soldier appeared, and the Captain, to whom the charge of seeing the Execution performed, was committed, returned with both the Soldiers to the Proconsul. But *Piso* being highly incensed put them all three to Death; the first, because he had been condemned; the second, for being the cause of that condemnation, and the Captain, for disobeying his Orders. So that he put three to Death for the Innocence of one Man, abusing his Authority and Power in a most cruel manner.

Avarice

Avarice or Covetousness, which is the next Favourite of *Injustice*, is called by *Aristotle*, a *Vice of the Soul*, whereby a *Man* desires to have a large Portion of every thing, and unjustly with-holds that which belongs to another. And *Anacharsis*, one of the wise Men of *Greece*, says, that a covetous *Man* is hardly capable of giving or receiving good *Counsel* or *Instruction*. — If this be the Case, then we may justly conclude that he is not qualified to be entrusted, or to meddle with *State-Affairs*. *Socrates* tells us, that it is a hard matter for a *Man* to bridle, but he that adds the love of *Riches* thereto is mad; for Covetousness will not repress or moderate itself either for shame of the *World*, or fear of *Death*. A covetous *Man* is a *Tantalus* in *Hell*, who dies with Hunger between Water and Meat; but if the trouble and anxiety of *Life* here on *Earth* was detrimental to himself only, the rest of the *World* would rest contented; but the *Commonwealth* suffers on account of the greedy Desires of avaritious *Men*. For to encrease their *Wealth* they have no regard to *Equity* and *Justice*; they contemn all *Laws*, and all Threats and Punishments annexed to them; they are *Enemies* to all *Mankind*, and when placed in *Authority*, and invested with *Power*, they condemn the innocent, justify the guilty, and find some cloak or colour of taking, and (as they think) of screening their *Bribery* and *Corruption*. They lay heavy Burthens on the *Publick*, but bear very little, if any part, themselves; they disturb the common *Tranquility*. and

often occasion a change in the Body Politick, or, for the most part, turn the Nation upside down. Are not such Men the Caterpillars of the Nation they live in, devouring the Fruits of the Industry and Labour of the whole Community? and yet, as I observed before, Profuseness is sometimes blended with Avarice.

The *Roman* Emperor, *Caligula*, was so much addicted to Covetousness, that he would stoop to any thing, tho' ever so abject, to get Money; he laid a Tax upon Urine, and sold his Sisters Gowns, whom he had first violated, and afterwards banished; yet in one Year of his Reign he was so profuse that he spent Sixty-seven Millions of Gold, which *Tiberius*, his Predecessor, had laid up.

Nero used great Cruelty to his Subjects, confiscating their Goods, and laying heavy Taxes upon them; and yet he gave the Ministers of his Tyranny, during the fifteen Years of his Reign, Fifty-five Millions of Crowns*. He caused a very stately gilt Palace to be built, which took in compass a great Part of *Rome*; but it was demolished after his Death, that the Memory of such a cruel Tyrant might (if possible) be rooted out of the Earth.

A notable Example for such, who to gratify their Pride, Ambition and Vain-glory, erect large

* A Roman Crown was six Shillings of our Money.

large and sumptuous Buildings, more like Palaces than the Seats of Gentlemen; and yet leave a notorious Mark, and perpetual Testimony to Posterity, that they have raised their Houses with the Spoils and Plunders of their Country.

Marcus Curius, a Roman Consul, had a truly noble and heroic Spirit; he was the first time that received thrice the Dignity of triumphing for the glorious Victories he had obtained for the Honour of his Country; and he set so little value on worldly Riches, or stately Edifices, that all his Estate was but a small Cottage and a little Farm in the Country, where he resided as often as Publick Affairs would permit him; labouring and tilling with his own Hands the little Spot of Ground he had there. When certain Ambassadors came to visit him, they found him in his Chimney dressing Reddish for his Supper; and when they presented him with a large Sum of Money from their Commonwealth, he refused it, saying, *That they, who contented themselves with such an Ordinary as his was, had no need of it; and he thought it much more honourable to command them who had Gold, than to have it.*

Where shall we find such another Instance of Temperance and Self-denial, since the Dissolution of all Rome? Had such an Offer been made to some Men in our Age, to One in particular, how greedily would he have swallowed the golden Bait? and I may affirm it would not have turned the Stomachs of the others.

I shall quote but one Example more, and then hasten to a Conclusion. *Alexander* having sent Ambassadors to *Phocion*, they presented him with an hundred Talents, being in value Threescore thousand Crowns; he demanding the Reason why their Monarch was so liberal to him, when there were so many *Athenians* besides, was answered, that their Master judged him only among all the rest to be a virtuous and good Man; then, says *Phocion*, let him suffer me to seem and to be so indeed, and carry back his Present to him. And yet he was poor, as may be proved by the Answer which he made to the Council of *Athens*, who demanded a voluntary Contribution of every one towards a Sacrifice; and when they were importunate with him to give something, it would be a Shame for me, he said, to give you Money before I have paid this Man; and thereupon he shewed them a Person, who had lent him a certain Sum.

If we apply this to our own Age, is it not a Rebuff for Persons of all Ranks and Stations, who put off their Creditors from time to time with fair Promises, and often with Threats, while they lavish the Money in Luxury and Gaming, which should have discharged their just Debts?

To conclude. As Injustice is the Bane of the Commonwealth, it ought to be punished in the most exemplary manner; nor should any Man find Grace or Favour, who does not endeavour and study to do good to his Country as well as to himself, and set the highest Value upon Right and Justice. By this Method a commendable and necessary Oeconomy and

and Reformation may be expected from Magistrates ; the Violaters of Laws, and they who take Bribes, who are guilty of Corruption, and who barter Employments, will be brought to condign Punishment, which will advance the Credit, and encrease the Profit of that Community, wherein such wholesome Measures are taken, and diligently pursued without any respect to Persons.

F I N I S.

